

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL MILAM,

Plaintiff,

V.

## PIERCE COUNTY *et al.*,

## Defendants.

Case No. C05-5842FDB

## ORDER ADOPTING REPORT AND RECOMMENDATION

The Magistrate Judge recommends dismissal of the cause of action against the remaining defendant, Susan Lay, a Washington State Department of Corrections records officer. Plaintiff alleges that a Pierce County warrant for a misdemeanor was erroneously entered into the Washington State Criminal Information Center as a felony warrant, resulting in Susan Lay causing a detainer to be served upon Plaintiff, which caused him to be placed in a more secure environment than a camp setting. The Magistrate Judge recommends dismissal because no facts are alleged showing that Defendant Lay violated any right or duty owed to the Defendant by serving him a copy of a detainer that other persons had entered into the system. Moreover, Plaintiff did not respond to Defendant Lay's motion to dismiss.

Subsequent to the Report and Recommendation being filed, Plaintiff filed a "Motion To Stay Pending Release 9-28-07." Plaintiff states he is seeking representation by counsel and he also asserts

1 that the memorandum of the detainer that Lay received referenced a charge of Assault in the Fourth  
2 Degree that he asserts is "clearly a misdemeanor complaint." The Court construes this motion as  
3 opposition to the Report and Recommendation.

4 Plaintiff has failed to demonstrate that the Report and Recommendation should be rejected  
5 under the circumstances, and the Court will adopt it.

6 The Court, having reviewed the Motion to Dismiss, (Dkt. # 45), the Report and  
7 Recommendation of Magistrate Judge J. Kelley Arnold, objections to the report and  
8 recommendation, and the remaining record, does hereby find and ORDER:

- 9 (1) The Court adopts the Report and Recommendation;
- 10 (2) Susan Lay's motion to be dismissed from this action for failure to state a claim is  
**GRANTED**. This action is **DISMISSED WITH PREJUDICE**.
- 11 (3) The Clerk is directed to send copies of this Order to plaintiff, counsel for defendant,  
12 and to the Hon. J. Kelley Arnold .

13 DATED this 11<sup>th</sup> day of June 2007.

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17 FRANKLIN D. BURGESS  
18 UNITED STATES DISTRICT JUDGE  
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